

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DARRELL HARPER	§	
v.	§	CIVIL ACTION NO. 6:14cv654
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Darrell Harper, proceeding *pro se*, filed this lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The sole named defendant is the United States of America.

Harper states that he “accuses the defendant of allowing the State of Texas to corrupt specific details disclosed in discrimination complaint, civil suits, and grievances, which denied plaintiff due process. See 5th Cir. Court of Appeals sanction no. 07-20603, dated June 19, 2008). Harper goes on to say that the United States was “part of the problem that improperly tried plaintiff in state court for the crime of terroristic threat that should have been treated as a federal offense, meaning State of Texas should have been tried for civil rights violation.” He attaches a letter he received from Lt. Poole of the Travis County Sheriff’s Department, apparently while Harper was incarcerated there, and says that Poole threatened him with a perjury prosecution if Harper filed an affidavit accusing Travis County sheriff’s deputies of accepting bribes. Harper’s lawsuit seeks monetary damages.

After review of the pleadings, the Magistrate Judge issued a Report recommending that he lawsuit be dismissed. The Magistrate Judge observed that the United States has sovereign immunity from lawsuits for monetary damages and that Harper had pleaded nothing resembling a viable claim

under the Federal Tort Claims Act. The Magistrate Judge also stated that Harper has been sanctioned on two prior occasions by the Fifth Circuit Court of Appeals, under the terms of which sanctions Harper is barred from filing any pleadings in the Fifth Circuit or the courts subject to its jurisdiction until those sanctions are satisfied, which he has not done. The Magistrate Judge therefore recommended that the lawsuit be dismissed as frivolous and as barred by the sanctions imposed by the Fifth Circuit.

In his objections, Harper complains that the United States failed to protect him from employment discrimination and failed to “minimize the risk of conflict with judicial duties.” He states that he never consented to the Magistrate Judge’s jurisdiction in the case and that the United States has violated the U.S. President’s oath of office by encouraging sanctions to be imposed upon him for “infractions yet to be committed, through no fault of plaintiff’s own, because employment discrimination played a part in a termination.” Harper’s objections are patently without merit.

The Court has conducted a careful *de novo* review of the pleadings in this case, including the Report of the Magistrate Judge and the Plaintiff’s objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff’s objections are without merit. It is accordingly

ORDERED that the Plaintiff’s objections are overruled and the Report of the Magistrate Judge (docket no. 3) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and as barred by the sanctions imposed by the Fifth Circuit. It is further

ORDERED that the Clerk shall send a copy of this order to the Administrator of the Strikes List for the Eastern District of Texas. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 24th day of September, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', is written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**